

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:09-CR-147-T-17AAS

JORGE LENIN IZAGUIRRE CABRERA.

_____ /

ORDER

This cause is before the Court on:

Dkt. 31	Notice of Maximum Penalty, Elements of Offense, Personalization of Elements and Factual Basis
Dkt. 160	Motion to Reduce Sentence
Dkt. 162	Amendment 782 Memorandum
Dkt. 172	Notice of Federal Defendant
Dkt. 204	Order Denying Motion for Retroactive Application of Sentencing Guidelines Pursuant to Amendment 782

Defendant Jorge Lenin Izaguirre Cabrera, *pro se*, moves for a sentence reduction of 2 levels because Defendant Cabrera was sentenced as an Armed Career Criminal.

Defendant Cabrera entered an open plea to Counts 1 and 2 of the Indictment. (Dkts. 32, 35). Defendant Cabrera was sentenced on October 13, 2009 on Counts 1 and 2 to a term of imprisonment of 168 months, concurrent; a term of supervised release of 60 months, concurrent; fine waived, and a special assessment fee of \$200.00. (Dkts. 107, 111). At sentencing, the Court granted the Government's 5K1.1 Motion for a 2-level reduction. The Court denied Defendant's request for a downward variance to 135 months Imprisonment.


The Court has reviewed the PSR. (Dkt. 162, pp.12-13.). Defendant Cabrera was not sentenced as an Armed Career Criminal. The initial offense level was based on the quantity of cocaine, 1,114 kilograms of cocaine, offense level 38. Due to the presence of three AK-47 weapons on the GFV, a 2-level increase in the offense level for possession of a dangerous weapon was added, and there was a 3-level decrease for acceptance of responsibility, for a

total offense level of 37.

The Amendment 782 Memorandum indicates that Defendant Cabrera is not eligible for relief because the Drug Quantity Table remains at level 38, as Defendant is accountable for 1,114 kilograms of cocaine.

After consideration, the Court denies Defendant Cabrera's Motion for Sentence Reduction because Defendant was not sentenced as an Armed Career Criminal. Accordingly, it is

ORDERED that *pro se* Defendant Jorge Lenin Izaguirre Cabrera's Motion for Reduction of Sentence. (Dkt. 160).

DONE and ORDERED in Chambers in Tampa, Florida on this  day of November, 2019.



ELIZABETH A. KOVACHEVICH
Senior United States District Judge

Copies to:

All parties and counsel of record

Pro Se Defendant:

Jorge Lenin Izaguirre Cabrera
50858-018
Great Plains Correctional Facility
P.O. Box 400
Hinton, OK 73047